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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/069,749	07/02/2002	Enno Vrolijk	723-26366 US	3497
128	7590	07/30/2004	EXAMINER	
HONEYWELL INTERNATIONAL INC. 101 COLUMBIA ROAD P O BOX 2245 MORRISTOWN, NJ 07962-2245			PRICE, CARL D	
			ART UNIT	PAPER NUMBER
			3749	

DATE MAILED: 07/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/069,749

Applicant(s)

VROLIJK, ENNO

Examiner

CARL D. PRICE

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### Specification

The disclosure is objected to because of the following informalities: Since the subject matter of any given claim may vary during the prosecution history of an application for patent applicant should remove any reference to claims appearing within the text of the specification. See, for example, page 3, line 5.

Appropriate correction is required.

### Information Disclosure Statement

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### Drawings

The subject matter of this application admits of illustration by a drawing to facilitate understanding of the invention. Applicant is required to furnish a drawing under 37 CFR 1.81. No new matter may be introduced in the required drawing.

**Incorporation of Essential Material**

The incorporation of essential material in the specification by reference to a foreign application or patent, or to a publication is improper. Applicant is required to amend the disclosure to include the material incorporated by reference. The amendment must be accompanied by an affidavit or declaration executed by the applicant, or a practitioner representing the applicant, stating that the amendatory material consists of the same material incorporated by reference in the referencing application. See *In re Hawkins*, 486 F.2d 569, 179 USPQ 157 (CCPA 1973); *In re Hawkins*, 486 F.2d 579, 179 USPQ 163 (CCPA 1973); and *In re Hawkins*, 486 F.2d 577, 179 USPQ 167 (CCPA 1973).

The attempt to incorporate subject matter into this application by reference to the foreign applications, or patents, **WO99/63272** and **WO99/63273** (see page 5, line14) is improper because applicant relies on these documents to incorporate the essential claimed subject matter of control methods for gas burners providing a gas-air mixture; namely for supplying a gas flow and a combustion air flow to a burner, wherein a signal of a sensor is used for adapting the gas-air mixture to different gas qualities.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. While applicant has only generally described a control method wherein the signal of the sensor is used for adapting the gas-air mixture to different gas qualities at selected points in time, the specification does not include necessary information regarding the manner and/or process of making and using the invention. For example, a person having ordinary skill in the art would not know applicant's intended manner and/or process by which "the signal" generated by the sensor is obtained, manipulated and/or applied to the otherwise known control methods for gas burners providing a gas-air mixture. It is important to note that while applicant, through apparent incorporation by reference, seems to rely on subject matter representing "conventional systems" disclosed by **WO99/63272** and **WO99/63273** (see page 5, line 14; "Here, express reference shall be made to the disclosure content of WO99/63272 and WO99/63273, and this shall be part of the present description"), **which are intended to be adapted by applicants' invention**, reliance on this essential subject matter (i.e. - control methods for gas burners providing a gas-air mixture; namely for supplying a gas flow and a combustion air flow to a burner, wherein a signal of a sensor is used for adapting the gas-air mixture to different gas qualities such as in **WO99/63272** or **WO99/63273**) is improper (see discussion of incorporation by reference of foreign documents herein above). A person having ordinary skill in the art would not know, except through undue experimentation, how to generate, obtain, measure, monitor, deliver, manipulate, and interpreting a signal having otherwise non-defined characteristics unique to the "signal" generated, obtained,

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measured, monitored, delivered, manipulated, and interpreted and applied to conventional systems by applicants'. While the level of ordinary skill in the art is such that a person would generally be capable of operating, making and using apparatus and processes requiring obtaining, measuring, monitoring, delivering, manipulating, and interpreting and applying sensor generated signals in operating combustion control systems, applicants' specification and disclosure lack the necessary information for the person having ordinary skill in the art to make and/or use the invention. Applicants' attention is directed to the prior art references of **JP '258 (Japanese 09-236258)**, applied in the rejection of the claims hereinbelow, which is representative of the type, degree and specificity of information necessary to enable a person having ordinary skill in the art to make and use an invention such as that indicated in the present application.

**Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

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*The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).*

**Claims 1-3, 8-12, 16, 18 and 19: Rejected under 35 U.S.C. 102(b)**

Claims 1-3, 8-12, 16, 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by JP '258 (Japanese 09-236258).

In regard to claims 1-3, 8, 9, 18 and 19, JP '258 (Japanese 09-236258) shows and discloses (See the English language Abstract and the document Drawing figures) a control method for gas burners for providing a gas-air mixture, namely for signal for the modulating gas controller (VC; 11,12) supplying a gas flow and a combustion air flow to a burner, a signal of a sensor (S, 25, TA) being used for adapting the gas-air mixture to different gas qualities, wherein the signal of the sensor (S, 25, TA) is used for adapting the gas-air mixture to different gas qualities at selected points in time (i.e.- "at a plurality of times") by using characteristics of signal generated during a time of operating the burner supply, and therefore gas-air ratio, between upper and lower limits (i.e. - "while fuel supply amount 1p is gradually increased from the minimum amount to the maximum fuel amount"), as a method for calibrating, or re-calibrating, the system (i.e. - "while fuel supply amount 1p is gradually increased from the minimum amount to the maximum fuel amount"). Information gained during the method of calibrating disclosed by JP '258 is then used to determine a subsequent composition ratio of the gas-mixture (i.e. - "correcting the reference correlation stored in memory means so that they coincide" and "If the deviation of the set point of the temperature TA falls within the suitable

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range, the reference temperature characteristics stored in the means 103 is corrected based on the deviation"). In regard to claims 2,3,10,11,12 and 16, since the existing burner system disclosed by JP '258 is discussed to be operational during application of the calibration method one can conclude that the time at which the system is being calibrated is "after the installation of the sensor" and "after a fresh start" in the manner broadly set forth in the claims. Since the burner system operates at least with the disclosed fuel selected during installation JP '258 meets the broadly stated claim limitation of "for adapting the gas-air mixture to different gas qualities". In regard to claim 9, the burner system method of JP '258 in a manner making no mention of "the aging process of a gas quality sensor" and therefore operated "independent of the aging process of a gas quality sensor".

**Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

*This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).*



**Claims 4-7,13,14,15,17: Rejected under 35 U.S.C. 103(a)**

Claims 4-7,13,14,15,17 are rejected under 35 U.S.C. 103(a) as being unpatentable over **JP '258 (Japanese 09-236258)**.

**JP '258 (Japanese 09-236258)** discloses the invention substantially as set forth in the claims. However, JP '258 does not disclose the signal is used after a reset and the signal is used when stable operating conditions of the burner as set forth in applicants' claims.

Official Notice is taken that it is well known to recalibrate control system components after "reset" and during stable operating conditions. Thus, in view of that which is well known in the art, it would have been obvious to a person having ordinary skill in the art to perform the calibration method of JP '258 after a reset for adapting the gas-air mixture to different gas qualities and/or when stable operating conditions of the gas burner have been reached.

**Conclusion**

See the attached PTO FORM 892 for prior art made of record and not relied upon and which are considered pertinent to applicant's disclosure.

**USPTO CUSTOMER CONTACT INFORMATION**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **CARL D. PRICE** whose telephone number is **703-308-1953**. The examiner can normally be reached on Monday through Friday between **6:30am-3:00pm**.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on **703-308-1935**. The fax phone number for the organization where this application or proceeding is assigned is **703-872-9306**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (**PAIR**) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the **Electronic Business Center (EBC)** at **866-217-9197 (toll-free)**.

A handwritten signature in black ink, appearing to read 'CDR', is positioned above the printed name of the examiner.

**CARL D. PRICE**  
**Primary Examiner**  
**Art Unit 3749**

cp